



**Testimony Submitted by Kevin Warren, President and CEO
Texas Health Care Association
House Human Services Committee
March 9, 2021**

Mr. Chairman and members: Thank you for allowing me this opportunity to submit testimony regarding HB892 which designates essential caregivers for in-person visitation in nursing facilities. Based upon the filed language in the bill, THCA's position is to be "on" the bill as filed; however, we support the intent and believe with changes to the proposed legislation we can ultimately be in position to fully support HB892.

Representing skilled nursing facilities and assisted living facilities across Texas, THCA appreciates the opportunity to provide testimony and input today regarding the impact of visitation restrictions on residents of long term care facilities because of COVID19.

From March 13, 2020 until October 2020, the state of Texas prohibited non-essential visitors from entering skilled nursing and assisted living facilities. As the state of Texas and its nursing facilities responded to the evolving challenges of this pandemic, communication to facilities, residents, and resident families were an important aspect of managing the challenges that family visitation restrictions and other limitations set forth by CMS, CDC, DSHS and HHSC. Throughout this period of time, the impact of visitation restrictions set forth by federal, state and local jurisdictions have been extremely difficult on all involved in caring for the health and safety of the residents.

In May 2020, THCA and Leading Age Texas, co-authored a 13-page document which contained our reopening recommendations. The recommendations were submitted to HHSC for review and consideration as it begun the process for determining a phased in reopening strategy. The recommendations put forth were based upon guidance adopted from other states and addressed issues such as: Phased in visitation, testing, PPE use, communal dining, screening, non-medically necessary trips, salons, and other aspects of a safe reopening plan.

Not until August 2020, was the initial guidance set forth allowing COVID free nursing facilities, who could comply with weekly testing requirements, to have visitors. At this time, only external visitation was allowed. While recognizing the need to implement visitation and prevent against COVID19 from entering into long term care and assisted living communities, we should have been able to find that balance earlier. In addition, when the August announcement was made, it was communicated to families, providers, and the general public thru a press release from HHSC. However, there had been no specific guidance released to the providers at the time of this announcement. LTC facilities were placed in a difficult position as families were calling to request visitation when the providers had not been provided the guidance in advance nor the necessary attestation documentation to receive approval.

A significant step forward in being able to expand the ability to allow for visitation has been the implementation of regular testing. While the ongoing testing requirements do prohibit some visitation based upon testing positive or overall county positivity rates, the ability to test residents and staff as well as

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require visitors to test prior to visitation has been critical in mitigating the spread of the virus. No one wants to see the efforts to stop the spread disrupted while bringing families and residents back together.

With the release of the final rule, there were multiple preparation elements that needed to be addressed: visitation policies, testing/training policies for visitors, additional screening requirements, data collection requirements, as well as visitation scheduling and coordination.

At present, there have been over a dozen federal changes to the COVID19 compliance for long term care providers and at least 17 updates to the HHSC COVID-19 Response Plan Guidance for Nursing Facilities. Further updates are expected and continue as clinicians and experts learn more about the virus and the impact of the vaccinations.

Throughout the pandemic, THCA has remained in continuous communication with HHSC at multiple levels throughout the agency, and we have appreciated their willingness to work with us on issues that affect all nursing home providers in Texas.

To further improve upon HB892, we propose the following recommendations:

- Allow the ability for facilities to temporarily suspend visitation, in coordination the HHSC, if the health and safety of the resident and/or staff in the facility necessitate a suspension.
- Add language that supports current requirements for essential caregivers to follow facility safety protocols to maintain essential caregiver status.
- Clarify the process for essential caregiver designation to simplify and mirror existing processes (e.g. process for POA designation).

The legislation proposed in HB892 is an important effort in clarity, predictability and improving communications up front if/when future pandemics or local public health emergencies present. The interactions and in-person relationship between the residents and their families, the staff and the families, and the staff and the residents are critical components of person-centered care. HB892 and the recommendations we have offered provide the opportunity recognize the importance of those relationships while maintaining a facility's ability to take the necessary steps to protect during a potential community health risk.

Mr. Chairman and members of the Committee, we thank you for your attention to long term care and your focus on this important legislation. We look forward to working with you on the issues as we continue to work together to continuously improve care delivery for nursing home residents in Texas.

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